

**ORDINANCE NO. 09-36**

ORDINANCE REPEALING AND  
RESCINDING HIALEAH, FLA.,  
ORDINANCE 96-100 (NOV. 12, 1996) IN  
PART AND IN PARTICULAR,  
REPEALING AND RESCINDING THE  
GRANT OF A SPECIAL USE PERMIT TO  
ALLOW NEW AND USED AUTOMOBILE  
SALES WITHIN A C-2 (LIBERAL RETAIL  
COMMERCIAL) DISTRICT AND  
REPEALING AND RESCINDING A  
VARIANCE PERMIT TO ALLOW A  
TOTAL OF 7 PARKING SPACES, 2 OF  
WHICH BACK OUT INTO THE STREET,  
WHERE 29 SPACES ARE REQUIRED,  
AND FURTHER RELEASING AND  
CANCELING OF RECORD A  
DECLARATION OF RESTRICTIVE  
COVENANTS DATED OCTOBER 18,  
1996, AS RECORDED IN OFFICIAL  
RECORDS BOOK 17462, PAGE 4676, OF  
THE MIAMI-DADE COUNTY PUBLIC  
RECORDS, **PROPERTY LOCATED AT  
2380-2390 PALM AVENUE, HIALEAH,  
FLORIDA.** REPEALING ALL  
ORDINANCES OR PARTS OF  
ORDINANCES IN CONFLICT  
HEREWITH; PROVIDING PENALTIES  
FOR VIOLATION HEREOF; PROVIDING  
FOR A SEVERABILITY CLAUSE; AND  
PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of April 8, 2009 recommended approval of this ordinance; and

**WHEREAS**, the current property owner, Acosta Properties, Inc., requests that the limitation of the sale of new and used automobiles on the property be repealed since such use has been discontinued and the intended future uses shall be within the permitted uses of the C-2 zoning district and further consents to the repeal of the parking variance as covenanted in the Declaration of Restrictive Covenants and as stated in Hialeah, Fla., Ordinance 96-100 (Nov. 12, 1996).

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The City of Hialeah, Florida hereby repeals and rescinds Hialeah, Fla., Ordinance 96-100 (Nov. 12, 1996) in part and in particular, repeals and rescinds the grant of a special use permit to allow new and used automobile sales within a C-2 (Liberal Retail Commercial) District and repealing and rescinding a variance permit on the below-described property to allow a total of 7 parking spaces, 2 of which back out of the street, where a minimum of 29 parking spaces are required; and further releasing and canceling of record a Declaration of Restrictive Covenants dated October 18, 1996, as recorded in Official Records Book 17462, page 4676, of the Miami-Dade Public Records. Property located at 2380-2390 Palm Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 10, 11, 12 AND 13, BLOCK 152, TENTH  
ADDITION TO THE TOWN OF HIALEAH,  
ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 8, PAGE 100, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the

city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

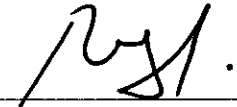
PASSED and ADOPTED this 28th day of April, 2009.

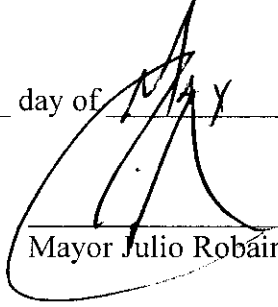
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Carlos Hernandez  
Council President

Attest:

Approved on this 1 day of May, 2009.

  
Rafael E. Granado, City Clerk

  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".



CFN 2009R0376471  
OR Bk 26876 Pgs 4563 - 4570; (8pgs)  
RECORDED 05/22/2009 15:30:19  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**Return to:**

City of Hialeah, Florida  
Office of the City Clerk  
501 Palm Avenue  
Hialeah, Florida 33010

**Instrument prepared by:**

William M. Grodnick, City Attorney  
City of Hialeah Law Department  
501 Palm Avenue, Hialeah, Florida 33010

**Property Appraiser's Parcel Identification (Folio  
Numbers): 04-3107-003-0740 and 04-3107-003-0750**

**RELEASE OF DECLARATION OF RESTRICTIONS**

This release of Declaration of Restrictions made at 501 Palm Avenue, Hialeah, Florida 33010, this 8 day of May, 2009, by the City of Hialeah, Florida, a Florida municipal corporation.

**WHEREAS**, the then property owners entered into a Declaration of Restrictive Covenants dated October 18, 1996, limited the use of the property to the sale of new and used automobiles only with no mechanical work to be performed on the premises pursuant to Hialeah, Fla., Ordinance 96-100 (Nov. 12, 1996) that granted a Special Use Permit (SUP) and

**WHEREAS**, the current property owner requests a repeal of the automotive use on the property since such use has ceased and the property owner intends to use the property within the permitted uses of the C-2 (Liberal Retail Commercial) District; and

**WHEREAS**, the Declaration of Restrictive Covenants was recorded on December 17, 1996 under Clerk's File No. 96R570336, as recorded in Official Records Book 17462, page 4676, of the Public Records of Miami-Dade County, Florida; and

**WHEREAS**, pursuant to Hialeah, Fla., Ordinance 09-36 (April \_\_, 2009), the City of Hialeah released and rescinded the Declaration of Restrictive Covenants.

**NOW, THEREFORE**, in furtherance of the approval by the Hialeah City Council releasing the Declaration of Restrictive Covenants covering 2380-2390 Palm Avenue, Hialeah, Florida, the City hereby releases, cancels and rescinds the Declaration of Restrictive Covenants dated October 18, 1996 covering 2380-2390 Palm Avenue, Hialeah, Florida bearing the following legal description:

LOTS 10, 11, 12 AND 13, BLOCK 152, TENTH ADDITION  
TO THE TOWN OF HIALEAH, ACCORDING TO THE PLAT  
THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 100,  
OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

*Ord. 09-36*  
*8*

**IN WITNESS WHEREOF**, the City of Hialeah has caused this instrument to be executed by the respective officials thereunto duly authorized this day and year first-above written.

City of Hialeah, Florida  
501 Palm Avenue/P.O. Box 11-0040  
Hialeah, Florida 33011-0040

Signed, sealed and delivered  
in the presence of:

Authorized signature on behalf of  
the City of Hialeah, Florida

Attest:

Rafael E. Granado

City Clerk

(SEAL)

Witness

Printed/typed name: Eustaquio E.

Witness

Printed/typed name: Edith Galloza

Approved as to legal sufficiency and as to form:

William M. Grodnick

William M. Grodnick, City Attorney

State of Florida

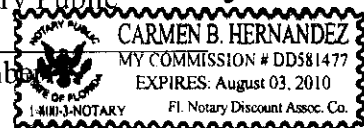
County of Miami-Dade

The foregoing instrument was acknowledged before me this 13 day of May, 2009 by Julio Robaina, as Mayor of the City of Hialeah, a Florida municipal corporation, and attested by Rafael E. Granado, City Clerk, on behalf of the City of Hialeah. They are personally known to me and did take an oath.

Carmen B. Hernandez  
State of Florida, Notary Public

Typed/printed name:

My Commission number



**ORDINANCE NO. 96-100**

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW NEW AND USED AUTOMOBILE SALES WITHIN A C-2 (LIBERAL RETAIL COMMERCIAL) DISTRICT AND GRANTING A VARIANCE PERMIT TO ALLOW A TOTAL OF 7 PARKING SPACES, 2 OF WHICH BACK OUT INTO THE STREET, WHERE 29 SPACES ARE REQUIRED; WAIVE MINIMUM LANDSCAPE REQUIREMENTS OF THE DADE COUNTY CODE AS ADOPTED BY THE CITY, TO WIT: 7-FOOT LANDSCAPED AREA BETWEEN THE OFF-STREET PARKING AND THE RIGHT-OF-WAY, 10% INTERIOR LANDSCAPING, 1 TREE PER 45 LINEAR FEET OF RIGHT-OF-WAY PERIMETER AND 1 TREE PER 100 SQUARE FEET OF INTERIOR PARKING LANDSCAPING; TO ALLOW THE EXISTING 19.8-FOOT FRONT SETBACK, WHERE 20 FEET ARE REQUIRED, 9.80-FOOT SIDE STREET SETBACK, WHERE 10 FEET ARE REQUIRED, AND ALLOW A 20.6-FOOT ACCESSWAY, WHERE 22 FEET ARE REQUIRED, CONTRA TO HIALEAH, FLA., CODE §§ 32-7.1(d)(1), (a)(3), AND (k)(1); 32-18(c), 32-7(4) AND 32-7.1(c)(1)a. **PROPERTY LOCATED AT 2380-2390 PALM AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING ADDITIONAL PENALTIES ON CHANGE IN USE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of September 25, 1996, recommended approval of this ordinance; and

**WHEREAS**, the Petitioner has entered into a Declaration of Restrictive Covenants, a copy of which is attached hereto and made a part hereof as Exhibit "1", proffering to limit the special use of the property to new and used automobile sales and further proffering that if the property ceases to be used for the sale of new and used

automobiles, the property owner, successor and assigns, will satisfy the minimum parking requirements of the City of Hialeah, as amended, and consent to the repeal and rescission of the parking variance granted herein.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing recitations and facts are hereby adopted and incorporated as if fully set forth herein.

**Section 2:** The below-described property is hereby granted a special use permit (SUP) to allow new and used automobile sales within a C-2 (Liberal Retail Commercial) District and is hereby granted a variance permit to allow a total of 7 parking spaces, 2 of which back out into the street, where 29 spaces are required; waive minimum landscape requirements of the Dade County Code as adopted by the City, to wit: 7-foot landscaped area between the off-street parking and the right-of-way, 10% interior landscaping, 1 tree per 45 linear feet of right-of-way perimeter and 1 tree per 100 square feet of interior parking landscaping; to allow the existing 19.8-foot front setback, where 20 feet are required, 9.80-foot side street setback, where 10 feet are required, and allow a 20.6-foot accessway, where 22 feet are required, contra to HIALEAH, FLA., CODE §§ 32-7.1(d)(1), (a)(3) and (k)(1); 32-18(c), 32-7(4) and 32-7.1(c)(1)a., which provide in pertinent part: ". . . One (1) parking space for each two hundred (200) square feet of gross floor area . . . ", ". . . Back-out parking shall be allowed in low density residential districts or areas.", ". . . Off-street parking areas shall be landscaped according to Dade County Landscape Manual for off-street parking . . . ", "Front yard required. Setbacks on all retail commercial property shall be twenty (20) feet . . . ", ". . . Minimum setback requirements for commercial buildings on corner lots shall be . . . ten

(10) feet from side street lot line . . ." and "*Accessibility*. Minimum width of driveways or accesses as follows: Perpendicular parking spaces -- 22 feet (width).", respectively. Property located at 2380-2390 Palm Avenue, Hialeah, Dade County, Florida, zoned C-2 (Liberal Retail Commercial), and legally described as follows:

LOTS 10, 11, 12 AND 13, BLOCK 152, TENTH  
ADDITION TO THE TOWN OF HIALEAH,  
ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 8, PAGE 100, OF THE  
PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Any person, firm or corporation convicted of violating the provisions of this ordinance shall be punished by a fine, not exceeding \$500.00, or by a jail sentence, not exceeding sixty (60) days, or both, in the discretion of the Court.

**Section 5: Additional Penalties on Change in Use.**

Any change of the special use identified in this ordinance and as provided in the Declaration of Restrictive Covenants will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use.

**Section 6: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

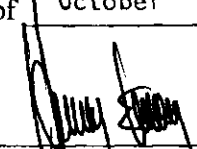


**Section 7: Effective Date.**

This ordinance shall become effective when passed by the City Council of the City of Hialeah, Florida, and signed by the Mayor of the City of Hialeah, Florida.

PASSED and ADOPTED this 22nd day of October, 1996.

THE FOREGOING ORDINANCE OF THE  
CITY OF HIALEAH WAS PUBLISHED  
IN ACCORDANCE WITH THE PROVISIONS  
OF FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Herman Echevarria  
President of Council

Attest:

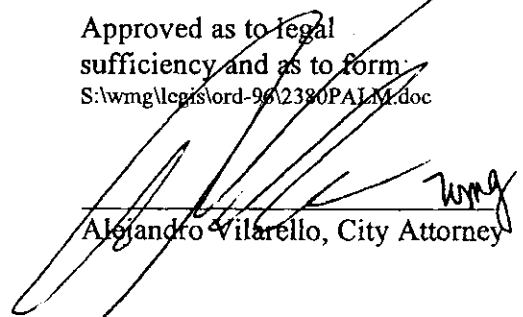
Approved on this \_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Daniel F. DeLoach, City Clerk

**MAYOR'S SIGNATURE WITHHELD**

\_\_\_\_\_  
Mayor Raul L. Martinez

Approved as to legal  
sufficiency and as to form:  
S:\wmg\legis\ord-96\2380PALM.doc

  
Alejandro Vilarello, City Attorney

ORDINANCE was adopted by a unanimous vote with Councilmembers Barrios, Caldwell, Echevarria, Morales, Rovira, Sanchez and Yedra voting "Yes".

ORDINANCE NO. 96-100 was passed and adopted by the Hialeah City Council on October 22, 1996, and became law on November 12, 1996 without the Mayor's signature.

DECLARATION OF RESTRICTIVE COVENANTS

OFF. REC. 17462 PC 4676

(I), RODOLFO PERDOMO, being the owner(s) of lands described herein:

Lots 10, 11, 12 and 13, BLOCK 152, Tenth Addition to the Town of Hialeah, according to the Plat thereof, as recorded in Plat Book 8, page 100, of the Public Records of Dade County, Florida.

also known as 2380-2390 Palm Avenue, Hialeah, Florida.

make the following Declaration of Restrictive covenants covering and running with the above property, spacing that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida. The undersigned is seeking an application for an approval of Special Use Permit (SUP) for the property to permit its use for (a) (an):

To allow the sale of new and used automobiles.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The use of the Property shall be limited as follows

The property shall be used to allow the sale of new and used automobiles only with no mechanical work to be performed on premises.

If the property ceases to be used as described above, the Owner and/or his successors or assigns will satisfy the minimum parking requirements as established by the City of Hialeah Code, as amended, and consent to a repeal and rescission of the parking variance/permit.

2. This instrument shall not become effective unless and until the undersigned's application for Special Use Permit in connection with the Property is approved is approved by the Hialeah City Council by the adoption of an ordinance and such ordinance becomes law. Upon becoming effective, this instrument shall be recorded in the Public Records of Dade County, Florida and constitute a covenant running with a title to the land described above, binding the undersigned and its successor and assigns
3. This instrument and the restrictions set forth herein may be modified, amended or released as to any [portions of the land described above by written instrument executed by the then owner of the fee simple title to the lands to be affected by such modification, amendment, release and approved after public hearing by the City Council of the City of Hialeah. Should this instrument be so modified, amended or released by the City Council, the Director of Planning and Zoning shall execute a written instrument that shall be recorded in the Public Records of Dade County effectuating and acknowledging such modification, amendment or release.
4. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.
5. It is understood that if the application is approved, the undersigned must comply with all applicable Federal, State, county, City laws, rules, and regulations. It is further understood that HIALEAH, FLA., CODE § 32-19.4(b)(4) provides as follows:

"Any change of the special use listed on the application and as provided in the Declaration of Restrictive Covenants submitted in connection therewith will be in violation of this section of the zoning code and cause revocation of the occupational license. The property shall revert as provided by Charter to the zoning classification (without the benefit of the special use) as existed prior to the approval of the SUP use."

96RS70336 1996 DEC 17 08:46

ono  
96-100  
10/22

OFF. REC. 17462 PC 4677

IN WITNESS WHEREOF, I (we) have hereunto set or hands and seals at Hialeah City Hall  
(Location)  
this 18<sup>th</sup> day of October, 1996

Signed, sealed and delivered in  
the presence of:

Witness (2 witnesses required)

Typed/Printed Name Daniel F. DeLuna

Witness

Typed/Printed Name DAHLIA SINCLAIR

X Owner

Typed/Printed Name Rodolfo Perdomo

Witness (2 witnesses required)

Typed/Printed Name \_\_\_\_\_

Owner

Typed/Printed Name \_\_\_\_\_

Witness

Typed/Printed Name \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF DADE

The foregoing instrument was acknowledged before me on this 18<sup>th</sup> day of October, 1996

by Rodolfo Perdomo, who are personally known to me or have produced Fla. Dr's. License  
(Owner(s)) P635-720-40-285-0

as identification and did (did not) take an oath and who attest(s) to the truth and accuracy of the representations  
contained herein.

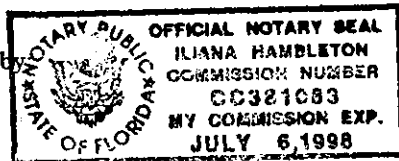
Iliana Hambleton  
SIGNATURE OF NOTARY PUBLIC

MY COMMISSION EXPIRES:

Iliana Hambleton  
NAME OF NOTARY TYPED, PRINTED, OR STAMPED

This document prepared by

William M. Grodnick  
Assistant City Attorney  
City of Hialeah  
501 Palm Avenue  
Hialeah, FL 33010



S:\wmg\contract\dec-perdomo.doc  
rev.10/96

RECORDED IN OFFICIAL RECORDS BOOK  
OF DADE COUNTY, FLORIDA.  
RECORD VERIFIED  
HARVEY RUVIN  
CLERK CIRCUIT COURT